



# Public Notice

<b>U.S. Army Corps Of Engineers Galveston District</b>	Permit Application No: _____	23752
	Date Issued: _____	9 November 2006
	Comments Due: _____	9 January 2007

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**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**PURPOSE OF PUBLIC NOTICE:** To solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. Notice is hereby given of the release of the Draft Environmental Impact Statement (DEIS), the Draft General Conformity Determination, the public comment period, and the date and location of the Public Hearing for the Brazos River Harbor Navigation District's (Port Freeport) proposed widening of the Freeport Harbor Ship Channel.

**AUTHORITY:** This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection and Sanctuaries Act.

**APPLICANT:** Brazos River Harbor Navigation District  
P.O. Box 615  
Freeport, Texas 77542-0615  
Telephone: 979-233-2667, ext. 4257  
POC: David Knuckey

**WATERWAY AND LOCATION:** The project is located in the Freeport Harbor Channel, Brazoria County, Texas. Specifically, the project site is located along the northern edge of the Freeport Harbor Jetty and Entrance Channels, between the towns of Surfside and Quintana. The project can be located on the U.S. Geological Survey quadrangle map entitled Freeport, Texas. Approximate UTM Coordinates: NAD 83, UTM 14N, 861095.730029, 3206475.762543. Please see the attached vicinity map for project location.

**BACKGROUND:** In April 2005, Port Freeport submitted a Department of Army Permit Application to widen portions of the Freeport Harbor Jetty Channel and all of the Freeport Harbor Entrance Channel from 400 feet (ft) to 600 ft. It was determined that an Environmental Impact Statement would be required for the proposed project. Since the November 29, 2005, Scoping Meeting, the consulting firm of PBS&J, under the direction of the Galveston District, U.S. Army Corps of Engineers (USACE), prepared a DEIS for the proposed project. The DEIS is now available for public review and comment.

To address the complex issues associated with the proposed project, we have invited the following Federal and state agencies to provide technical advice during preparation of the EIS:

- National Marine Fisheries Service (NMFS)
- United States Coast Guard
- United States Fish and Wildlife Service
- Environmental Protection Agency (EPA)
- Texas Commission on Environmental Quality (TCEQ)
- Texas General Land Office (GLO)
- Texas Parks and Wildlife Department
- Texas Department of Transportation

**PROJECT DESCRIPTION:** The Port of Freeport proposes to widen portions of the Freeport Ship Channel. The project includes widening the Freeport Harbor Jetty Channel beginning at Channel Station 63+35 with a gradual widening, at the authorized depth, up to an additional 150 feet (ft) for about 1,835 ft to Channel Station 45+00. From that point to Channel Station 40+00 the widening would be less gradual from the additional 150 ft to an additional 200 ft. Through the rest of the Jetty Channel and to the end of the Freeport Harbor Entrance Channel (Channel Station -260+00), the channel would be widened an additional 200 ft. The length of channel proposed for widening is about 6.1 miles, of which 5.7 miles would be widened by 200 ft. The project depth will remain the same at 45 ft in the Jetty Channel and 47 ft in the Entrance Channel. The widening would generate approximately 3.2 million cubic yards (mcy) of new dredged material. Approximately 2.9 mcy of the new work material would consist of clay material and about 300,000 cubic yards (cy) would consist of silty/sand material. If approved by EPA and by USACE under Section 102 and 103 of the Marine Protection Research and Sanctuaries Act (MPRSA), an Ocean Dredged Material Disposal Site (ODMDS) previously designated as a one-time use site would be redesignated for placement of the 2.9 mcy of clay/silt material. The 300,000 cy of silty/sand material would be used beneficially and placed on Quintana Beach in front of the Seaway Upland Confined Placement Area (UCPA). The beach on either side of this location has been enhanced through GLO or other programs, leaving a “gap” in front of the Seaway UCPA. Placement of the material in this location would fill the gap, allowing for continuous beach use and providing some protection from erosion for the Seaway UCPA.

**AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS):** Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended and as implemented by the Council on Environmental Quality (40 CFR Parts 1500-1508) a DEIS for the proposed Freeport Channel Widening has been filed with the EPA and is being made available to Federal, state, and local agencies and all interested parties. The DEIS can be viewed at [www.swg.usace.army.mil/reg/pn.asp](http://www.swg.usace.army.mil/reg/pn.asp). Copies of the DEIS are available by contacting Sam Watson, P.O. Box 1229, Galveston, Texas 77553-1229 or by calling 409-766-3946.

In addition, copies of the DEIS are available for viewing at the following libraries:

- Brazoria County Library System, Catherine H. Threadgill, County Librarian, 451 North Velasco Street, Angleton, Texas 77515-4442
- Brazoria Library, Jerry Measells, Librarian, 620 South Brooks Street, Brazoria, Texas 77422-9022
- Clute Library, Carolyn Weatherly, Librarian, 215 North Shanks Street, Clute, Texas 77531-4122
- Freeport Library, Marge Janke, Librarian, 410 North Brazosport Boulevard, Freeport, Texas 77541-3802
- Lake Jackson Library, Nancy Hackney, Librarian, 250 Circle Way Street, Lake Jackson, Texas 77566-5203

**DRAFT GENERAL CONFORMITY REVIEW:** Pursuant to Section 176 of the Clean Air Act Amendments (CAAA) of 1990, a Draft General Conformity Determination has been filed with the EPA and the TCEQ and is being made available to Federal, state and local air quality agencies and all interested parties for the proposed Freeport Channel Widening. Copies of the Draft General Conformity Determination are available by contacting Sam Watson. In addition, copies of the Draft General Conformity Determination are available for viewing, along with the DEIS, at the libraries listed above.

**SECTION 102/103:** The EPA is charged with developing ocean dumping criteria to be used in evaluating permit applications under Section 102(a) of the MPRSA. The EPA is also responsible for designating recommended sites for ocean dumping under Section 102(c) of the MPRSA. Redesignation by EPA of an inactive ODMDS will be required for placement of new work (virgin) dredged material. Section 103 of the MPRSA authorizes the USACE to permit the transportation of dredged material to a designated ODMDS, subject to EPA concurrence and use of EPA's dumping criteria. Information required for the redesignation (Section 102) and permit (Section 103) is included in the DEIS (primarily in Appendix C).

**OTHER AGENCY AUTHORIZATIONS:** Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said program.

**NATIONAL REGISTER OF HISTORIC PLACES:** The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic resources and the effects of the proposed project upon these properties:

A remote sensing survey of the Freeport Harbor Channel was performed by PBS&J in March and April, 2005, and a close-order survey was performed in February 2006. A total of eleven anomalies having potential historic significance were located in areas of potential impact during the initial inventory. Six of those anomalies were

identified as areas that were of potential historic significance during the second inventory. Because these six anomalies occur within areas that would be impacted by bottom disturbing activities, it was recommended to the Texas Historical Commission (THC) that these areas be surveyed by diving and/or probing to confirm whether or not they are significant archeological sites. This confirmation would occur prior to a decision regarding issuance or denial of the Section 404/10 permit by the USACE. The THC concurred with the recommendation. Coordination with the THC is ongoing regarding the confirmation surveys.

**THREATENED AND ENDANGERED SPECIES:** Preliminary indications are that no known threatened and/or endangered species or their critical habitat would be affected by the proposed work. A Biological Assessment has been prepared and is presented to U.S. Fish and Wildlife Service and NMFS in the DEIS.

**ESSENTIAL FISH HABITAT:** Consultation for Essential Fish Habitat of the Magnuson-Stevens Fishery Conservation and Management Act was initiated in November, 2005, via the workshop prior to the public scoping meeting. Letters were also sent to the NMFS in February and May, 2006. Our final determination relative to project impacts and the need for mitigation measures is subject to additional review by and coordination with NMFS.

**PUBLIC INTEREST REVIEW FACTORS:** The application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the USACE, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against reasonably foreseeable detriments associated with the proposal. All factors which may be relevant to the proposal will be considered. These include, but are not limited to: dredged material management, air quality, shoreline erosion, economics, general environmental concerns, historic resources, protected species, navigation, recreation, water and sediment quality, energy needs, safety, hazardous materials, and, in general, the welfare of the people.

**SOLICITATION OF COMMENTS:** The USACE is soliciting comments from the public, Federal, state, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments will be considered in the evaluation of impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments will be used in the preparation of the Final Environmental Impact Statement pursuant to NEPA. Comments are also used to determine the overall public interest of the proposed activity.

**PUBLIC COMMENT AND PUBLIC HEARING:** If you wish to voice your comments, a public hearing on the proposed project is scheduled for December 6, 2006, at the Freeport Community House, 1300 West Second Street, Freeport, Texas 77541. Poster presentations will be available for viewing and project team members will be present to discuss the DEIS at a workshop that will precede the hearing. The workshop will be conducted from 5:00 p.m. to 6:45 p.m., and the formal hearing will commence at 7:00 p.m. This hearing is to provide an opportunity for all interested persons to provide information to the Corps for use in preparing the EIS. Every effort will be made to address concerns/issues identified in the DEIS. Please bring this notice to the attention of others known to be interested in the subject of the meeting.

**CONDUCT OF THE PUBLIC HEARING:** The District Engineer, Galveston District, Corps of Engineers, will serve as the presiding officer at the public hearing. The District Engineer will take all actions necessary to conduct a fair, impartial, and orderly meeting. To this end, powers of the District Engineer include, but are not limited to the following:

- a) To regulate the course of the meeting and conduct of the parties, their counsel, and the public in attendance.
- b) To establish reasonable time limits for oral statements of parties, their counsel, or representatives.
- c) To receive into evidence all written statements, charts, tabulations, and similar data.
- d) To ask questions of speakers for purposes of clarification.

All persons will be given an opportunity to present oral and written statements, including documentary materials, at the public hearing. Any person will be entitled to be represented by, or speak through, legal counsel or other representative, to call witnesses who may present oral statements, and to present recommendations as to an appropriate study, or other considerations. Prior to the opening of the hearing, each person will be requested to complete an attendance card. The attendance card will contain information blocks on which persons attending the public hearing can give their name, address, and whether they wish to present an oral statement during the public hearing.

Statements and information may be provided without restriction by formal procedures and rules of evidence; however, all statements and information provided must concern the subject matter of the hearing.

All statements shall be addressed to the District Engineer. Cross-examination of any person addressing the public hearing, by any person in attendance, will not be allowed

The District Engineer or representative will be given the first opportunity to speak and will be allowed the necessary time to complete their oral statement. Other persons intending to address the public hearing will be called upon and should come prepared to complete their oral statement in not more than five minutes (subject to change based on attendance). Statements by any person that cannot be completed within the time allotment should be summarized orally, and the full text submitted in writing.

Written statements or information materials for inclusion in the record, including documentary materials, may be presented during the public hearing or may be mailed to the District Engineer, Galveston District, Corps of Engineers, at the following address:

U.S. ARMY ENGINEER DISTRICT, GALVESTON  
ATTENTION: CESWG-PE-RB  
P.O. BOX 1229  
GALVESTON, TEXAS 77553-1229

All statements, both oral and written, will become part of the official record of the public hearing and will be made available for public examination. Mailed statements to be included in the record must be mailed on or before January 9, 2007.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before **9 January 2007**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should be submitted to:

Sam J. Watson  
Regulatory Branch, CESWG-PE-RB  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3946 Phone  
409-766-6301 Fax

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS